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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/627,529 07/25/2003 Elliot A. Rudell 155660-0222 2894

1622 7590 03/11/2008
IRELL & MANELLA LLP
840 NEWPORT CENTER DRIVE
SUITE 400
NEWPORT BEACH, CA 92660

EXAMINER

DONNELLY, JEROME W

ART UNIT	PAPER NUMBER
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3764

MAIL DATE	DELIVERY MODE
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03/11/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/627,529	Applicant(s) RUDELL ET AL.	
	Examiner Jerome W. Donnelly	Art Unit 3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) ____ is/are pending in the application. 1-4 6-14 and 15-26
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed. 1-4, 6-14 and 15-26
- 6) ☒ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

JEROME DONNELLY
PRIMARY EXAMINER

JEROME DONNELLY
PRIMARY EXAMINER

Attachment(s)

- | | |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ DONNELLY |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application EXAMINER |
| Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

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This is a first action final of applicants claims submitted in the instant application. These claims were submitted (unamended) in applicants response dated 12/04/06. All claims are drawn to the same invention claimed in the earlier filed amendment/remarks dated 12/04/06 and could have been finally rejected on the ground and art of record in the next office action if there had been earlier presented. Accordingly, this Office Action is Made Final.

In response to the applicants arguments directed to the applicability of the additional art reference of Telepko, to address the feature of "a timer that count a time interval before activation of a motor" the examiner considers the disclosure of Telepko (even absent the disclosure of Telepko col. 21, line 31-38) as providing a device and disclosure which make the claim feature obvious. The rejection is considered obvious and maintained as follows:

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6-9 and 11-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stevens in view of Telepko.

Claims 1-4, 6-9 and 11-19 are rejected for the same reason as set forth in the rejection of the same claims, in the office action dated 2/10/06.

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Comments with respect to Col. 21, lines 31-38 are not being reiterated in this Office Action.

The examiner takes Judicial notice that starting a jump rope session and may other exercise and sport sessions by saying or counting 1-2-3 is known in the art.

Claims 10, 11 and 20-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rudell et al in view of Telepko.

Claims 10, 11 and 20-26 are rejected for the same reasons as set forth in the rejection of the same claims in the office action dated 2/10/06.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication should be directed to Jerome Donnelly at telephone number (571)272-4975.

Jerome Donnelly

JEROME DONNELLY
PRIMARY EXAMINER

A handwritten signature in black ink, consisting of a large, stylized 'J' followed by a series of loops and a long horizontal stroke.